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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,497	07/16/2001	Masanori Hattori	211371US2RD	2254

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EXAMINER

CUFF, MICHAEL A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,497

Applicant(s)

HATTORI ET AL.

Examiner

Michael Cuff

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-13, 15-17, 19-27, 29-32, 34, 35 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Cupps et al.

Cupps et al. shows a purchase promotion system and method comprising: a user information database (128) configured to store electronic goods information', a user judgment unit configured to judge a user state regarding whether a user is fit to purchase goods based on a current location of the user and based on facilities existing in the users area (see col. 9, lines 17-23); and a user notification unit configured to send a message urging the user to purchase desired goods (see Fig. 8 - the "Click here to see Special Savings" button urges users to purchase desired goods).

Cupps et al also teach that the judgment unit judges the user state based on the current time, a working time zone of the user, and schedule activities of the user (see col. 9, lines 48-62). Cupps et al also teach that the notification unit recognizes an information communication terminal used by the user and sends the message in a format suitable to the information communication terminal (see, for example, col. 11, lines 20-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps et al. Cupps et al. teaches all of the limitations of the claims except for a teaching of a portable information communication terminal. However, portable terminals are common in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a portable terminal with the invention of Cupps et al to allow users to connect from any location.

Claims 14, 18, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cupps et al., as applied to claims 1 and 20 above, in further view of Jacobi et al. Cupps et al teach all of the limitations of the claims except for a teaching of a purchase log and the step of recommending new items based on the purchase log. Jacobi et al teach an online recommendation system that recommends products to users based on their purchase history (see, for example, col. 1 , lines 14-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Jacobi et al with the invention of Cupps et al to recommend items that a particular user would be likely to buy to increase sales.

Response to Arguments

Applicant's arguments filed 9/29/04 have been fully considered but they are not persuasive.

Applicant asserts that Cupps et al. does not show, "a user information database unit configured to store electronic goods or services information indicating goods or services scheduled to be purchased or goods or services desired to be purchased, for each user;" The examiner does not concur. Please re-read how broad this limitation is.

"a user information database unit configured to store electronic goods or services information" - Any database whatsoever meets this "configured to" limitation.

Now, even if one was to give much patentable weight to the "configured to", but does not necessarily "store" the information, the information could indicate either:

"goods or services scheduled to be purchased"

or

"goods or services desired to be purchased"

The prior art shows, and was and is in the cited sections of the rejection, a registration of users with user profiles related to product ordering and delivery. The reference meets the metes and bounds of the very broadly recited claim limitation.

Applicant asserts that Cupps et al. does not show judging the user state regarding whether the user is fit to purchase goods or services. The examiner does not concur. As broadly recited, the matching criteria used in Cupps et al. meets the metes and bounds of "judging" and determining what is a match or "fit".

Art Unit: 3627

Applicant asserts that Cupps et al. does not show sending a message for urging or reminding the purchase of specific goods or services to the user via a network according to the user state. The examiner does not concur. Fig. 8 - the "Click here to see Special Savings" button meets this limitation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone

Art Unit: 3627

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/27/04
Michael Cuff
December 27, 2004